

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
17-CvS-15955

IN THE MATTER OF:

DOUG MILLER PETITION FOR RELEASE
OF A LAW ENFORCEMENT AGENCY
RECORDING.

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**ORDER GRANTING PETITION FOR
RELEASE OF LAW ENFORCEMENT
AGENCY RECORDING**

THIS MATTER came on for hearing on September 7, 2017 before the undersigned Superior Court Judge presiding in Courtroom 6310 in Mecklenburg County on the Petition for Release of a Law Enforcement Agency Recording which was filed August 28, 2017 by Doug Miller, pursuant to N.C.G.S. § 132-1.4A.

The Petition sought access to certain video recordings in the possession of the Charlotte-Mecklenburg Police Department (“CMPD”) relating to events which took place from September 20, 2016 through September 24, 2016 relating to public protests and demonstrations which occurred in Charlotte after the fatal shooting of Keith Lamont Scott by a CMPD police officer. Petitioner, the Deputy City Editor and Investigations Editor of *The Charlotte Observer*, was represented at the hearing by Jonathan E. Buchan. Also appearing were Judy Emken, legal counsel for CMPD; Assistant District Attorney Clayton L. Jones; and Terry Sherrill, legal counsel for Rayquan Borum (“Mr. Borum”), who has been charged with first degree murder and whose image may appear on some portion of the videos sought.

The Court, having reviewed the Petition, heard arguments from counsel for Petitioner, CMPD, the District Attorney’s Office and Mr. Borum, and having reviewed the only portion of the recordings sought by Petitioner whose release has been objected to, makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Petitioner sought release pursuant to N.C.G.S. § 132-1.4A(g) of specific portions of the video recordings from certain locations and at specific times at approximately eight (8) separate locations around Charlotte during the period September 20, 2016 through September 24, 2016.

2. The parties required to be served under this statute were properly served and received notice of this hearing.

3. Petitioner and CMPD represented to the Court that the video recordings sought by Petitioner were recordings made from cameras along various Charlotte roads and/or highways by or on behalf of CMPD, except for one of the recordings which was made from a CMPD helicopter on September 20, 2016.

4. These recordings cover the time span September 20, 2016 through September 24, 2016 and generally involve video footage of demonstrations and protests that occurred in Charlotte after the September 20, 2016 fatal shooting of Keith Lamont Scott.

5. CMPD did not object to the release of any of the videos sought by Petitioner. The District Attorney's Office and counsel for Mr. Borum objected only to the release of approximately two (2) minutes of one video recording identified in the Petition as "Omni, 9/21, 20:28 to 20:39 (large group outside Omni)." Those parties requested that the Court redact approximately two (2) minutes of this video. The two (2) minute segment was identified as the portion of this recording beginning at approximately 20:29 and running through 20:31, and that two minute segment will hereinafter be referred to as the "Omni Video Segment." The Assistant District Attorney and counsel for Mr. Borum described the Omni Video Segment as including images of Mr. Borum at

